

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION

JUSTIN FINCH, et al., )  
                          )  
Plaintiffs,          )  
                          )  
v.                      ) CIVIL ACTION NO.: 2:10-CV-0062-WCO  
                          )  
DONALD SHANE BROWN, et al., )  
                          )  
Defendants.          )  
                          )  
\_\_\_\_\_

DEFENDANT BROWN'S RESPONSE TO PLAINTIFFS' MOTION FOR LIMITED  
EXTENSION OF TIME FOR EXPERT WITNESS DISCOVERY

ARGUMENT AND AUTHORITY

On December 31, 2010, Defendant Brown filed his motion to exclude testimony from expert witness Judith F. Cox. Plaintiffs have filed a response in opposition to the motion to exclude.

In their response, plaintiffs contend that their expert witness disclosure was timely under Local Rule 26.2(C). As a fallback position, plaintiffs suggest that this matter can be resolved through the expedient of an extension of discovery, and plaintiffs' motion for an extension of time is the procedural mechanism by which plaintiffs seek to accomplish their objective. Defendant Brown opposes this motion.

Defendant Brown's position with regard to the timeliness of the expert witness disclosure is set forth in his original application to exclude as well as in the reply brief in support of that request. Those arguments will not be repeated here.

Movant does wish to reiterate his understanding that when the court decreed that no further extension of discovery would be allowed beyond the current deadline of January 24, 2011, it meant what it said. If the court agrees with the position articulated in the motion to exclude, the question of an extension of time for expert witness discovery is moot. Defendant Brown requests the court to make those rulings on the two pending motions i.e. grant the motion to exclude expert witness Cox and deny plaintiffs' motion for limited extension of time as moot.

On the other hand, if the court determines that the expert witness was timely, movant believes in fairness than an extension of time for the completion of expert witness discovery is warranted. Plaintiffs tacitly acknowledge the validity of that position by filing a motion for the extension of discovery with regard to the expert witness situation.

Certainly, the related issues raised by the motion to exclude and the motion to extend discovery for expert witness disclosure are matters as to which the court must exercise its discretion. The court should deny plaintiffs' motion for extension of time as a consequence of having granted the motion to exclude expert witness Cox.

Respectfully submitted,

BEGNAUD & MARSHALL, LLP

s/Andrew H. Marshall

Andrew H. Marshall

Georgia Bar No.: 471450

Attorney for Defendant

Donald Shane Brown

1091-B Founder's Boulevard  
Post Office Box 8085  
Athens, Georgia 30603-8085  
(706) 316-1150  
(706) 316-1153 fax  
dmmarshall@athens1867.com

CERTIFICATE OF SERVICE

This is to certify that I have this day served the other parties in the foregoing matter by depositing in the United States mail a copy of **Defendant Brown's Response To Plaintiffs' Motion For Limited Extension Of Time For Expert Witness Discovery** in an envelope with adequate postage addressed to:

Albert Wan, Esq.  
Albert Wan, Attorney at Law  
Suite 200  
1201 Peachtree Street  
400 Colony Square  
Atlanta, Georgia 30361

George Brian Spears, Esq.  
Law Office of Brian Spears  
1126 Ponce de Leon Avenue  
Atlanta, Georgia 30306

Gary M. Shapiro, Esq.  
Law Office of Gary M. Shapiro  
Suite 1500-20  
400 Galleria Parkway  
Atlanta, Georgia 30339

G. Kevin Morris, Esq.  
Williams, Morris & Waymire  
4330 South Lee Street, NE  
Building 400, Suite A  
Buford, Georgia 30518

Timothy J. Buckley, III, Esq.  
Michaela C. Kendall, Esq.  
Buckley Brown  
Attorneys at Law  
2970 Clairmont Road, NE  
Suite 1010  
Atlanta, Georgia 30329

This 25<sup>th</sup> day of January, 2011.

s/Andrew H. Marshall  
Andrew H. Marshall

**LOCAL RULE 7.1(D) CERTIFICATE**

I further hereby certify that this document has been prepared using Courier New (12 point) font.

This 25th day of January, 2011.

s/Andrew H. Marshall  
Andrew H. Marshall